

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION	No. 13 Civ. 7789 (LGS)
---	------------------------

STIPULATION AND [PROPOSED] ORDER

WHEREAS, on July 31, 2015, Plaintiffs filed their Second Consolidated Amended Class Action Complaint (ECF No. 368), which included claims on behalf of the “Exchange Plaintiffs;”¹

WHEREAS, on June 3, 2016, Plaintiffs filed their Third Consolidated Amended Class Action Complaint (“TAC”) (ECF No. 619), which included claims on behalf of the Exchange Plaintiffs;

WHEREAS, on September 3, 2019, the Court denied Plaintiffs’ motion to certify under Rule 23(b)(3) an OTC Class and Exchange Class. (ECF No. 1331, at 1, 8, 22, 25). Instead, pursuant to Rule 23(c)(4), the Court certified two issues for class wide treatment on behalf of only the OTC Class (*id.*, at 19-22, 25);

WHEREAS, following the Court’s class certification order, the OTC Class tried by jury the certified issues, and on October 20, 2023, the jury found Plaintiffs proved a conspiracy to widen, fix, stabilize or maintain bid-ask spreads in the FX spot market, but did not prove that Credit Suisse knowingly participated in such conspiracy (ECF No. 1997 at 1);

WHEREAS, on October 24, 2022, the Court entered an Order for Judgment in favor of the

¹ The Exchange Plaintiffs are Systrax Corporation, Plaintiffs J. Paul Antonello, Marc G. Federighi, Thomas Gramatis, Doug Harvey, Izee Trading Company, John Kerstein, Michael Melissinos, Mark Miller, Robert Miller, Richard Preschern d/b/a Preschern Trading, Peter Rives, Michael J. Smith, Jeffrey Sterk, and Kimberly Sterk. *See* ECF No. 619, at ¶¶30, 32-46).

Credit Suisse Defendants and against Plaintiffs on the Section 1 claims in the Third Amended Complaint (ECF No. 2017);

WHEREAS, on March 2, 2023, Plaintiffs filed a pre-motion conference letter seeking to certify the Court's October 24, 2022 Order for Judgment as an appealable final judgment under Federal Rule of Civil Procedure 54(b) so that Plaintiffs may seek an appeal (ECF No. 2039, at 1);

WHEREAS, on March 9, 2023, following Credit Suisse's response letter, the Court issued an Order to Plaintiffs to "show[] cause why their remaining claims should not be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b)" (ECF No. 2044 at 3);

WHEREAS, on March 20, 2023, the Court Ordered the parties to file a stipulation with an attached proposed amended complaint (ECF No. 2046);

WHEREAS, the parties wish to bring the remaining individual claims of the Exchange Plaintiffs to an end;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties the following:

1. Within three days of the Court's approval of this Order, pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, Plaintiffs shall file a Fourth Consolidated Amended Class Action Complaint ("Fourth Amended Complaint") that removes the Exchange Plaintiffs and their claims.² A [Proposed] Fourth Amended Complaint is attached hereto as Exhibit A. A redline comparing the Proposed Fourth Amended Complaint with the TAC is attached hereto as Exhibit B.

2. Following the filing of the Fourth Amended Complaint, the parties agree that the Court can and should enter final judgment in Credit Suisse's favor consistent with this Court's

² Systrax Corporation Section 1 claim as a member of the OTC Class shall remain.

October 24, 2022, Order for Judgment (ECF No. 2017) because all litigation in the District Court as to the remaining claims has concluded.

Dated: March 21, 2023

/s/Jason M. Hall

Jason M. Hall
CAHILL GORDON & REINDEL LLP
32 Old Slip
New York, New York 10005
Telephone: (212) 701-3154
jhall@cahill.com

Counsel for Credit Suisse Defendants

/s/Christopher M. Burke

Christopher M. Burke
KOREIN TILLERY P.C.
707 Broadway, Suite 1410
San Diego, CA 92101
Telephone: (619) 625-5620
cburke@koreintillery.com

/s/Michael Hausfeld

Michael Hausfeld
HAUSFELD LLP
1700 K Street, NW, Suite 650
Washington, D.C. 20006
Telephone: (202) 540-7143
mhausfeld@hausfeld.com

Class Counsel

/s/George A. Zelcs

George A. Zelcs
KOREIN TILLERY, LLC
205 N. Michigan Ave., Suite 1950
Chicago, IL 60601
Telephone: (312) 641-9750
gzlcs@koreintillery.com

*Counsel for Robert Miller, Mark Miller, and
Peter Rives*

/s/David R. Scott

David R. Scott
SCOTT+SCOTT, ATTORNEYS AT
LAW, LLP
The Helmsley Building
230 Park Avenue, 17th Floor
New York, NY 10174
Telephone: 212-223-6444
david.scott@scott-scott.com

Counsel for Systrax Corporation

/s/Michael E. Criden

Michael E. Criden
CRIDEN LOVE, P.A.
7301 SW 57th, Suite 515
South Miami, FL 33143
Telephone: (305) 357-9000
mcriden@cridenlove.com

*Counsel for J. Paul Antonello, Marc G.
Federighi, and Michael J. Smith*

/s/John Radice

John Radice
RADICE LAW FIRM, PC
475 Wall Street
Princeton, NJ 08540
Telephone: (646) 245-8502
jradice@radicelawfirm.com

*Counsel for Doug Harvey, Izee Trading
Company, and Richard Preschern d/b/a
Preschern Trading*

/s/ Steve Kanner

Steve Kanner
FREED KANNER LONDON & MILLEN,
LLC
2291 Waukegan Road, Suite 130
Bannockburn, IL 60015
Telephone: (224) 632-4507
skanner@fklmlaw.com

*Counsel for Thomas Gramatis and John
Kerstein*

/s/Linda Nussbaum

Linda Nussbaum
NUSBAUM LAW GROUP, P.C.
1211 Avenue of the Americas, 49th Floor
New York, NY 10036
Telephone: (917) 438-9189

lnussbaum@nussbaumpc.com

*Counsel for Jeffery Streck, Kimberly Sterk, and
Michael Melissinos*

IT IS SO ORDERED.

DATED: _____

THE HONORABLE LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE